

HOUSE BILL 1592

By Johnson G

AN ACT to amend Tennessee Code Annotated, Title 41,
relative to persons who are pregnant and
incarcerated.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 41, Chapter 51, is amended by adding the following new part:

41-51-201. As used in this part:

(1) "Body cavity search" means an internal probing or examination of the inside of a person's anus, vagina, or genitals for the purpose of determining whether the person is concealing evidence of a criminal offense, a weapon, a controlled substance, a controlled substance analogue, or other contraband;

(2) "Correctional institution" means a facility under the authority of any state, county, or municipal government that has the power to detain or restrain, or both, a person under the laws of this state;

(3) "Corrections official" means the official designated as responsible for oversight of a correctional institution, or the official's designee;

(4) "Corrections staff" means a person working with, contracting with, or volunteering in any capacity with a correctional institution;

(5) "Detainee" includes a person detained under the immigration laws of the United States at a correctional institution;

(6) "Postpartum" means the twelve-week period, or longer as determined by the healthcare professional responsible for the prisoner's or detainee's health care,

immediately following delivery, stillbirth, miscarriage, ectopic pregnancy, or pregnancy outcome other than live birth; and

(7) "Prisoner" means a person incarcerated or detained in any correctional institution who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or a diversion program.

41-51-202.

(a) Corrections staff shall not conduct a body cavity search of a pregnant or postpartum prisoner or detainee unless:

(1) Other less-intrusive methods have been employed; and

(2) The staff member has submitted, in writing, specific and articulable facts to a corrections official, and the corrections official, upon reviewing the evidence, approves of the search based on the:

(A) Danger posed by the suspected contraband; and

(B) Danger imposed by the cavity search to the pregnant or postpartum prisoner or detainee and the fetus.

(b) If a corrections official approves of a body cavity search, the staff member who conducts a search described by this section shall submit a written report to the warden or sheriff of the correctional institution no later than seventy-two (72) hours after the search. The report must:

(1) Explain the reasons for the search;

(2) Identify the staff member who conducted the search;

(3) Report the amount of time that passed between suspicion and search; and

(4) Identify any contraband recovered in the search.

(c) The report must be made available for public inspection, except that information identifying a prisoner or detainee shall not be made public in violation of § 10-7-504 without the prisoner's or detainee's prior written consent.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.